

**DURHAM, NORTH CAROLINA  
MONDAY, JANUARY 3, 2005  
7:00 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chambers at City Hall with the following members present: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Absent: None.

Also present: Interim City Manager Patrick Baker, City Attorney Henry Blinder, City Clerk D. Ann Gray and Deputy City Clerk Linda Bratcher.

Mayor Bell called the meeting to order with a moment of silent meditation and the Pledge of Allegiance led by Council Member Clement.

Council Member Clement announced that he donated his 63<sup>rd</sup> pint of blood to the Red Cross and commented on the City blood donor program, congratulated 29 officers that were promoted in the Durham Police Department; commended Council Member Stith and Finance Director Ken Pennoyer on the letters and comments written in *The Herald-Sun* newspaper regarding the debt refinancing program (SWAP).

Council Member Brown made comments on the SWAP noting he sent a letter to State Treasury Richard Moore soliciting his support to defer the Local Government Commission's (LGC) vote on the swap proposal scheduled for January 4, 2005. He shared information that Council did not have when they voted on this issue relative to the Durham County's swap proposal, five proposals LGC received, etc. Finally, he urged Council to continue to investigate this proposal before moving forward on the final vote.

Regarding the SWAP recommendation that will come from the LGC, Mayor Bell asked to review reports from them and its staff.

Council Member Clement asked that representatives from PFM and Rice be available to answer questions when this item comes back for Council consideration.

Mayor Bell asked for priority items from the City Manager, City Attorney and City Clerk. Interim City Manager Baker commented on Supplemental Item #50 [Durham Comprehensive Plan] and read a status report highlighting the City's response to the shooting at 118 W. Main Street [MK's House of Jazz & R&B] on January 3, 2005 and the responses to Mayor's questions relative to the shooting of the 13 year old female adjacent to MK's on December 22 [handout provided].

Council Member Clement requested a follow-up report on shootings at the January 6, 2005 Work Session.

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Council Member Best asked the administration to provide information on the protocol for off-duty officers and a strategy for dispersing crowds from the Club.

Mayor Bell asked the administration to follow-up to see if alcohol was consumed at the club for the teen-ager event.

Council Member Clement made comments on the nuisance abatement issue.

There were no priority items from the City Attorney.

City Clerk Gray informed Council of a valid protest petition filed against GBA #38 [Rezoning Case P04-02 – Daniel Tract].

Mayor Bell made comments on the City Manager search. He noted four finalists will be announced on Wednesday, a Special City Council Meeting has been scheduled for Thursday, January 13 at 8:30 a.m. to interview them to be followed by a Public Forum at 6:30 p.m. to meet the finalists and hopefully a selection will be made on Friday, January 14, 2004.

Mayor Bell asked if any citizen(s) or council member(s) wanted to pull any items from the Consent Agenda. Consent Agenda Item # 50 [Land Exchange Between the City of Durham and the Triangle Land Conservancy] was pulled.

**MOTION** by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to approve the Consent Agenda as amended was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

#### **[CONSENT AGENDA]**

#### **SUBJECT: APPROVAL OF CITY COUNCIL MINUTES**

**MOTION** by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to approve minutes for the December 6, 2004 regular and December 10, 2004 special City Council Meetings; and

To approve City Council action taken at the November 18, 2004 City Council Work Session was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

#### **SUBJECT: CABLE TV ADVISORY BOARD – RECEIPT AND ACCEPTANCE OF AN APPLICATION**

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**MOTION** by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to receive and accept an application to fill one (1) vacancy on the Cable TV Advisory Board for a term to expire on October 31, 2006 was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: CITIZENS ADVISORY COMMITTEE – RECEIPT AND  
ACCEPTANCE OF AN APPLICATION**

**MOTION** by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to receive and accept an application for a citizen to fill one (1) vacancy for a City-Wide member with a term to expire on June 30, 2006 was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: PASSENGER VEHICLE FOR HIRE COMMISSION –  
APPOINTMENT**

**MOTION** by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to appoint Carl Snipes to fill one (1) vacancy on the Passenger Vehicle for Hire Commission with a term to expire on January 1, 2007 was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: RALEIGH-DURHAM AIRPORT AUTHORITY - APPOINTMENT**

**MOTION** by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to appoint Tonita F. Lipscomb to fill one (1) vacancy on the Raleigh-Durham Airport Authority with a term to expire on January 1, 2007 was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: DURHAM CONVENTION & VISITORS BUREAU BOARD OF  
DIRECTORS - A TOURISM DEVELOPMENT AUTHORITY -  
NOMINATION/APPOINTMENT**

To appoint Joanne Worthington-Fitzgibbon to the Durham Convention & Visitors Bureau Board of Directors - A Tourism Development Authority to represent Food Service as recommended by the DCVB Board of Directors - term expiring October 31, 2007.

Note: This item was approved at the 12/21/04 Work Session with a vote of 7/0.

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**SUBJECT: DURHAM BICYCLE & PEDESTRIAN ADVISORY COMMISSION  
– RECEIPT AND ACCEPT OF APPLICATION**

**MOTION** by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to receive and accept applications to fill one (1) vacancy on the Durham Bicycle & Pedestrian Advisory Commission with a term expiring on August 31, 2006 was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: CONTRACTS**

**MOTION** by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to execute the following contracts on the list; and

To authorize the City Manager to make changes to the contracts on the list before execution as long as the changes do not increase the dollar amount and remain consistent with the general intent of the contracts was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

<b>Contractor</b>	<b>Contract Description</b>	<b>Dept</b>	<b>CT Amount</b>
C H Engineering	Surveying service Fire Station #16	Gen Ser	\$1,500.00
Martin & Co	Appraisal of 141 Leigh Farm Road	Gen Ser	\$1,500.00
Andrew Griffin	Gate Opener	P&R	\$1,500.00
Jeffery Reece	Gate Opener	P&R	\$1,500.00
Dennis Roberts	Official	P&R	\$2,000.00
Valeria Sumpter	Water Aerobics	P&R	\$992.00
Arnetta Herring	Fitness Instructor	P&R	\$2,200.00
Trina Hymes	Aerobics Instructor	P&R	\$1,300.00
Eva Morgan	Prep Specialty Program	P&R	\$1,000.00
Sherman Fogg	Senior Exercise	P&R	\$3,800.00
Monica Perry	Senior Exercise	P&R	\$1,500.00
Joi Abraham	Belly Dance Instruction	P&R	\$2,600.00
Lori Barbier	Water Fitness	P&R	\$1,330.00
Vision & Destiny Group	Management Academy	CMO	\$1,500.00
Dies & Hile	Asbestos Assessment & possible legal action-Police HQ	Gen Ser	Percentage

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K&C Enterprises	Board Houses Clean Lots	Housing	\$10,120.00
Complete Lawn Care	Board Houses Clean Lots	Housing	\$18,740.00

Note: The Avila Retreat Center contract for facility rental Council Retreat was referred back to the Administration.

**SUBJECT: PIGGYBACK PURCHASE - 104' AERIAL FIRE APPARATUS - SUTPHEN CORPORATION**

**MOTION** by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to enter into a contract with the Sutphen Corporation in the amount of \$588,413 for providing the City with an 104' Aerial Fire Apparatus; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: MAJOR SITE PLAN – HUSBAND RETAIL BUILDING (D04-502)**

**MOTION** by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to approve a major site plan for 'Husband Retail Building' submitted by W.W. Kingsley, Architect, on behalf of Jay and Agnes Husband, to construct a 4,747 square foot retail building with 24 parking spaces and an off-site dumpster on a 0.619 acre site zoned NC and F/J-B, located on the east side of N.C. 55, north of Sedwick Drive, PIN 0737-01-18-0809 was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: MAJOR SITE PLAN - CROASDAILE VILLAGE EXPANSION (D04-343)**

**MOTION** by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to approve a major site plan for 'Croasdaile Village Expansion', submitted by Duane K. Stewart & Associates on behalf of United Methodist Retirement Homes, Inc., for an addition of 62 apartments and 30 cottages to an existing retirement center on a 99.52 acre site zoned PDR 2.00 and E-B, located on the east side of Croasdaile Farm Parkway between Stoneybrook Drive and Hillandale Road, PIN 0813-12-75-6146 was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore

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Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: MAJOR SITE PLAN – SHELTON’S HARLEY-DAVIDSON, INC.  
(D04-585)**

**MOTION** by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to approve a major site plan for “Shelton’s Harley-Davidson, Inc.”, submitted by RL Horvath, Inc. on behalf of Shelton’s Harley-Davidson, Inc. for a 38,749 square foot addition to an existing 12,800 square foot building for a total of 51,549 square feet, a 750 square foot modular classroom and 75 parking spaces on a 4.25 acre site zoned I-2 and F/J-B with a landscape variation in size and spacing of street trees and a 50% buffer reduction along the eastern property line, located on the east side of Muldee Street and U.S. Hwy. 70 and north of Holloway Street, PIN 0841-09-07-8153 was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: CONTRACT SD-2005-02 STORMWATER DRAINAGE  
IMPROVEMENTS - HOLMES CONTRACTING, INC.**

**MOTION** by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to execute Contract SD-2005-02 with Holmes Contracting, Inc. of Cary, North Carolina in the amount of \$293,419.00 for Stormwater Drainage Improvement projects;

To authorize the City Manager to establish a contingency fund for Stormwater Drainage Improvement projects of \$146,710;

To authorize the City Manager to execute change orders for Contract SD-2005-02 Stormwater Drainage Improvements for the projects initially identified in the contract and for additional stormwater projects provided that the total additional cost of the contract does not exceed \$146,710 and the total project cost for Contract SD-2005-02 does not exceed \$440,129; and

To authorize the City Manager to modify the contract before execution provided the modifications do not increase the dollar amount of the contract and are consistent with the general intent of the version of the contract approved by the City Council was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: SETTING PUBLIC HEARINGS FOR THE CONFIRMATION OF  
ASSESSMENT ROLLS**

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**MOTION** by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to adopt resolutions setting public hearings for January 17, 2005 for the following assessment rolls was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Water Main on Ridgeview Road from Milton Road to and Including Tax Map 865-1-7;

Curb, Gutter and Paving on Shawnee Street from Center Line of Lynch Street to N & W Railway Right-of-Way;

Curb, Gutter and Paving on Dodsworth Court from Lochn'ora Parkway South to Cul-de-sac;

Sewer Main on Leonard Drive from East Property Line of Tax Map 566-4-6 to Turner Street;

Curb, Gutter and Paving on Larchwood Drive from Booker Avenue to Fayetteville Road; and

Sewer Main on Haddon Road from the West Property Line of Tax Map 448-3-8 to the East Property Line of Tax Map 448-3-6 and Doubleday Place from Haddon Road to North Property Line of Tax Map 448-4-1.

**SUBJECT: LICENSE AGREEMENT WITH CROSSMANN COMMUNITIES OF NC, INC./BEAZER HOMES CORPORATION – SUMMER MEADOWS**

**MOTION** by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to enter into a License Agreement with Crossmann Communities of NC, Inc./Beazer Homes Corporation to install and maintain landscaping at Summer Meadows, Tax Map 780-01-010; PIN 0834-03-21-8749 was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: LICENSE AGREEMENT WITH CROSSMANN COMMUNITIES OF NC, INC./BEAZER HOMES CORPORATION – CARDINAL LAKE**

**MOTION** by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to enter into a License Agreement with Crossmann Communities of NC, Inc./Beazer Homes Corporation to install and maintain

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landscaping at Cardinal Lake, Tax Map 706-01-010; PIN 0852-02-65-2298 was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: WATER & SEWER EXTENSION AGREEMENT WITH D. R. HORTON, INC. – MADISON GLEN SUBDIVISION**

**MOTION** by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to enter into a Water & Sewer Extension Agreement with D. R. Horton, Inc. to serve Madison Glen Subdivision, Tax Map 842-04-012, 12B, 15, 16, 18, 19, 20; PIN 0825-03-33-7619, -8025; -34-4054; -43-1440, -7706, -7923, -44-6267 was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: YOUTH COUNCIL**

**MOTION** by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to discuss the establishment of a Youth Council for the City of Durham was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: BUSINESS LOANS REPORT FOR NOVEMBER 2004**

**MOTION** by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to receive the Business Loans Report for November 2004 was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: CHANGES TO ANNUAL INSURANCE PLAN**

**MOTION** by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to extend the term of the current excess liability insurance policy to April 1, 2005, at a cost of \$36,805;

To authorize the City Manager to extend the term of the current excess workers' compensation insurance policy to April 1, 2005, at a cost of \$29,954; and



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To authorize the City Manager to cancel the current commercial property insurance policy effective April 1, 2005 and purchase new coverage effective April 1, 2005, for a period of one year, at a net cost not to exceed \$142,996 was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: LANDSCAPE MAINTENANCE CONTRACTS - REALISCAPE, INC. - FAITHFUL LAWN CARE, INC.**

**MOTION** by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to execute a 3 year contract with Realiscape, Inc., in an amount not to exceed \$246,659, for Landscape Maintenance of Zone A;

To authorize the City Manager to make changes to the contract prior to execution provided the changes do not increase the compensation to be paid by the City and do not decrease the goods and services to be provided to the City;

To authorize the City Manager to execute a 3 year contract with Faithful Lawn Care, Inc., in an amount not to exceed \$457,535, for Landscape Maintenance of Zone B; and

To authorize the City Manager to make changes to the contract prior to execution provided the changes do not increase the compensation to be paid by the City and do not decrease the goods and services to be provided to the City was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: SUB-RECIPIENT AGREEMENT – OPERATION BREAKTHROUGH WEATHERIZATION PROGRAM**

**MOTION** by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to execute a sub-recipient agreement with Operation Breakthrough, Inc., utilizing \$75,000 of CDBG Funds to support the Weatherization/Energy Efficient Conservation Program; and

To authorize the City Manager to make changes to the document that does not increase the contract amount, lessen the contractor's duties, or extend the term of the contract beyond December 31, 2005 was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: HOME PROGRAM FUNDING TO DURHAM COMMUNITY LAND TRUSTEES INC. FOR 1113 PROCTOR STREET- \$40,000 NEW CONSTRUCTION LOAN & GRANT**

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**MOTION** by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to authorize the expenditure of HOME Program Funds in an amount not to exceed \$40,000, with \$18,000 of this amount being in the form of a second mortgage having a 3% interest rate and a term of 20 years, and \$22,000 being in the form of a forgivable third mortgage with zero percent interest rate;

To authorize the City Manager to execute a HOME Investment Partnership Agreement and other related legal documents with Durham Community Land Trustees, Inc. to provide funds for the construction of a single-family dwelling located at 1113 Proctor Street to be utilized as rental housing for person(s) earning 60% or less of the HUD determined Area Median Income as amended from time to time; and

To authorize the City Manager to modify the agreement and other related legal documents before execution provided that the modifications do not increase the dollar amount of the agreement and do not lessen the obligations of the contractor was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: AMENDMENT TO INFRASTRUCTURE IMPROVEMENTS  
CONTRACT BARNES AVENUE REDEVELOPMENT PROJECT -  
SEASIDE ENVIRONMENTAL CONSTRUCTORS, INC.**

**MOTION** by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to execute the Barnes Avenue Redevelopment Project - Infrastructure contract with Seaside Environmental Constructors, Inc. to provide additional infrastructure improvements for the Barnes Avenue Redevelopment project, in an amount of \$193,697 funded from the Barnes Avenue Initiative for a total contract amount of \$1,068,208;

To allocate \$200,000 from the development budget contingency fund to the Seaside Environmental Constructors, Inc. contract contingency fund for a total of \$287,451;

To authorize the City Manager to execute any necessary change orders for the Barnes Avenue Redevelopment project contract provided the total cost of all changes orders does not exceed \$287,451 and that the total project cost does not exceed \$1,355,659; and

To authorize the City Manager to modify the contract before execution provided the modifications do not increase the dollar amount of the contract and are consistent with the general intent of the version of the contract approved by City Council was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

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**SUBJECT: HOUSING LOAN REPORT – CCB AND AMERINATIONAL**

**MOTION** by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to receive an update on the Transition of the City's Loan Portfolio from CCB to AmeriNational was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: CAPITAL PROJECT ORDINANCE AMENDMENT FOR ENO RIVER GREENWAY PROJECT**

**MOTION** by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to find that the Eno River Greenway project is at least 75% necessitated by new construction and that up to 75% of the capital costs of that project may be paid by impact fees collected within the same service zone and collected for the same purpose;

To authorize the use of Parks and Recreation impact fees collected from Zone 3 in the amount of \$313,000 to be used to increase the construction budget for the Eno River Greenway project; and

To adopt an ordinance amending the General Capital Project Ordinance, Fiscal Year 2004-05, as amended, the same being ordinance #12972, for the purpose of allocating \$313,000 from the Zone 3 Parks and Recreation Impact Fees to the Eno River Greenway account was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**Ordinance #13061**

**SUBJECT: CAPITAL IMPROVEMENT PROJECT ORDINANCE  
AMENDMENT TO FUND ADDITIONS TO THE ACS  
GOVERNMENT SYSTEMS, INC SOFTWARE  
IMPLEMENTATION CONTRACT**

**MOTION** by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to adopt an ordinance amending General Capital Improvement Project Ordinance, FY2005, as amended, the same being Ordinance 12972 for the purpose of increasing the 'One Stop Shopping' Technology Project by \$84,000 for a total project budget of \$863,885;

To authorize the City Manager to execute change controls #004 and #005 to the ACS Government Systems, Inc. software implementation contract; and

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To authorize the City Manager to modify the change control documents provided that modifications do not increase the dollar amount and the modifications are consistent with the general intent of the existing version of the original agreement was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**Ordinance #13062**

**SUBJECT: DIGITAL ORTHOPHOTOS ACQUISITION CONTRACT -  
SANBORN, LLC – CITY OF DURHAM – DURHAM COUNTY**

**MOTION** by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to execute a contract with Sanborn, LLC of Charlotte, NC in the amount of \$223,325.24 for the production of color digital orthophotos for the City of Durham and Durham County; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: COMPREHENSIVE ANNUAL REPORT FOR THE PERIOD  
ENDED JUNE 30, 2004**

**MOTION** by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to receive and accept the report on the Comprehensive Annual Financial Report of the City of Durham for the period ended June 30, 2004 was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: RALPH MCKINNEY**

**MOTION** by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to receive comments from Ralph McKinney on an investigation on City employees and elective officials on race, sex and age was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: TONETTE AMOS**

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To receive comments from Tonette Amos on Discontinuance of Employee Parking Subsidy.

Note: This item was referred to the Administration.

**SUBJECT: STATUS REPORT-AMERICAN TOBACCO PROJECT**

**MOTION** by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to receive a status report on the American Tobacco Project was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: AMENDMENT TO RESOLUTION #1894 – COPIES OF  
DUPLICATED PUBLIC RECORDS**

To adopt an Amendment to Resolution Establishing Fee for Providing Copies of Duplicate Public Records of the City of Durham.

Note: This item was referred back to the Administration.

**[ITEM PULLED FROM CONSENT AGENDA]**

**SUBJECT: LAND EXCHANGE BETWEEN THE CITY OF DURHAM AND  
THE TRIANGLE LANDCONSERVANCY**

Mayor Bell made comments about the exchange and asked staff what the property will be used for.

Beth Timson, of Parks & Recreation Department, noted it will be useable for a park and the property is buildable as opposed to the property the City is exchanging which is not buildable.

**MOTION** by Council Member Clement seconded by Council Member Catotti to authorize the City Manager to publish a notice of the City Council's intention to authorize the exchange of approximately 57.8 acres comprising City Tract #1993(PIN 0845-01-28-3800), along with payment of \$30,000, in return for approximately 105 acres of land owned by the Triangle Land Conservancy, PIN 0835-01-39-40900 -- pursuant to G.S. 160A-271, Exchange of Property;

To adopt a Resolution at its next regular meeting on January 18, 2005, authorizing the exchange and payment and that the City Council hereby states its intention; and

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To approve the concept of a joint-use school and park on this site and authorize the City Manager to proceed with required negotiations for such joint use with Durham Public Schools was approved at 7:41 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**[GENERAL BUSINESS AGENDA]**

**SUBJECT: PROPOSED TEN-YEAR GROUND LEASE AGREEMENT FOR  
PARCEL #2 CT 1635**

Sandra Harper, of the Real Estate Division, made comments on this item.

Council held discussion on the cost of demolition.

Kim Griffin, Jr. spoke in support of this item noting the Association has outgrown its space.

Council Member Brown disclosed that he is a member of the Durham Association of Realtors.

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Clement to adopt a resolution authorizing a ten-year lease of a portion CT 1635 (Parcel #2) to the Durham Association of Realtors under the authority of G. S. 160A-272; and

To authorize the City Manager to make changes to the Agreement provided such changes do not change the intent of the lease was approved at 7:47 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**Resolution #9204**

**[GENERAL BUSINESS AGENDA – PUBLIC HEARINGS]**

**SUBJECT: CONFIRMATION OF ASSESSMENT ROLL - SEWER MAIN ON  
RIVERMONT ROAD**

Lee Murphy, of the Public Works Department, made comments on this item.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor declared the public hearing closed.

**MOTION** by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to receive public comments; and

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To adopt a resolution confirming the assessment roll for Sewer Main on Rivermont Road from Northeast Property Line of Tax Map 767-4-17 to Northeast Property Line of Tax Map 770-2-1 was approved at 7:48 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: CONFIRMATION OF ASSESSMENT ROLL - SEWER MAIN ON RIVERMONT ROAD**

Lee Murphy, of the Public Works Department, made comments on this item.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor declared the public hearing closed.

**MOTION** by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to receive public comments; and

To adopt a resolution confirming the assessment roll for Sewer Main on Rivermont Road from Northeast Property Line of Tax Map 767-4-17 Southwest to the Rivermont Road Outfall was approved at 7:48 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: CONFIRMATION OF ASSESSMENT ROLL - WATER MAIN ON MARYWOOD DRIVE AND KARA PLACE**

Due to objections, Lee Murphy, of the Public Works Department, requested Council to confirm the assessment roll, except for the Jim and Mattie Cockrell, Martha Absher, Mark and Marianne Burgeson and David and Julie Potenziani properties, continue the public hearing for those assessments without further advertising and to refer those assessments to the February 10, 2005 City Council Work Session for further consideration.

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no further objections and/or allegations, the public hearing was declared closed.

**MOTION** by Council Member Clement seconded by Council Member Stith to adopt a resolution confirming the assessment roll for Water Main on Marywood Drive from the East Property Line Tax Map 773-3-3 to the North Property Line Tax Map 773-5-10 and Kara Place from Marywood Drive to the End of the Cul-de-sac, except for the Jim and Mattie Cockrell, Martha Absher, Mark and Marianne Burgeson and David and Julie Potenziani properties to be referred to the February 10, 2005 City Council Work Session

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for further consideration [public hearing continued without further advertising] was approved at 7:49 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: FY 2005-2010 CONSOLIDATED PLAN “NEEDS” PUBLIC HEARING**

Katherine Simmons, of Housing & Community Development, noted this item is not a public hearing.

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Stith to set the FY 2005-2010 Consolidated Plan 'Needs' public hearing for January 18, 2005 was approved at 7:50 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: DUKE POWER ELECTRIC FRANCHISE EXTENSION TO JULY 6, 2005**

Assistant City Manager Ted Voorhees made comments on this item.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor declared the public hearing closed.

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Clement to receive public comment on the Duke Power Electric Franchise Extension; and

To adopt and Ordinance extending to July 6, 2005, the existing franchise to provide electrical service to the City of Durham held by Duke Energy Corporation was approved at 7:51 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**Ordinance #13060**

**SUBJECT: LAND USE PLAN AMENDMENT - 6408 FAYETTEVILLE ROAD (A04-13) – CITY OF DURHAM**

City/County Planning Director Frank Duke briefed Council on the staff report.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor declared the public hearing closed.



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**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Stith to receive public comment on the 6408 Fayetteville Road (A04-13) Plan Amendment; and

To adopt a resolution to change the Land Use designation on the Future Land Use Maps of the South Durham Plan and the NC 54/I-40 Corridor Study from Office to Commercial was approved at 7:53 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**Resolution #9205**

**SUBJECT: REZONING MATTER CASE (P04-02) – DANIEL TRACT - A. WAYNE DANIEL, DEBORAH D. HUNT, BOBBY V. HUNT, PATRICIA B. DANIEL, DORIS H. DANIEL – EPHEsus CHURCH ROAD AND POPE ROAD**

To receive public comment on rezoning Case P04-02 (Daniel Tract); and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P04-02 out of RD and R-20 and placing same in and establishing same as PDR 3.37

Planning Department: Approval

Zoning Committee Recommendation and Vote: Denial - (10-2)

Note: Valid protest petition filed against this rezoning.

City/County Planning Director Frank Duke briefed Council on the staff report noting this public hearing was continued from the November 1, 2004 City Council Meeting in order for the applicant to revise the development plan and to meet with neighbors. As a result, the applicant has revised the request from a PDR 3.81 to PDR 3.37, reduced the total number of units to 217, increased minimum lot size to 7,000 square feet and reduced townhomes to 142 units. He noted these changes do not constitute significant revisions to the development plan, the proposal is consistent with the NC 54/I-40 Corridor Plan, staff recommended approval and the Planning Commission has denied this request.

Mayor Bell opened the public hearing.

Council held discussion on latest changes to the development plan.

**Proponent**

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Bill Harriss, representing the applicant, stated the applicant wishes to revise its application to remove the townhome component.

City/County Planning Director Frank Duke noted the change noted by the applicant constitutes a significant change in the zoning request relative to density which requires that the rezoning go back to the Planning Commission for a new hearing.

### **Opponents**

Kevin Kirk, of 5311 Beaumont Drive, noted he would not be speaking tonight due to the change noted by the applicant.

Ed Harrison, with the Chapel Hill Town Council, noted he had concerns other than the number of units that may remain with the new project regarding the new intersection and safety.

City/County Planning Director Frank Duke asked Council to close the public hearing and refer this back to the administration.

Mayor Bell declared the public hearing closed.

**MOTION** by Council Member Clement seconded by Council Member Stith to refer this item back to the administration was approved at 8:02 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: MAJOR SPECIAL USE PERMIT - W. G. PEARSON  
ELEMENTARY SCHOOL (M04-04) – DURHAM PUBLIC  
SCHOOLS – EAST SIDE OF FAYETTEVILLE STREET, NORTH  
OF RIDDLE ROAD AND SOUTH OF CORNWALLIS ROAD**

To hold a quasi-judicial public hearing to consider a Major Special Use Permit for the construction of an 82,474 square-foot public elementary school on a 42.245 acre site, with enrollment capacity of 720 students.

To direct the Planning Director to prepare an order for adoption, for 1) approval, 2) approval with conditions or 3) denial, or to continue this hearing to a specified later meeting. (A draft order for approval with staff recommended conditions will be available at the meeting).

City Clerk Gray swore in the following individuals: Frank Duke, Michael Stock, Dan Jewell, Hugh Osteen, Patricia Hill, James Hill, Jr. and Gwendolyn Waller.

Mayor Bell explained the proceedings for a major special use permit.

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The Mayor asked Council to reveal any possible conflicts and to withdraw from this hearing if necessary. Also, Mayor Bell asked if any Council Member had been exposed to any evidence or information that may not come out at the hearing tonight.

Mayor Bell asked the attorney for the applicant and for opponents or a representative to identify themselves.

Mayor Bell opened the public hearing.

### **Testimony from Staff**

Michael Stock, of the City/County Planning Department, requested that the staff report and all attachments and exhibits be entered as a part of the permanent record.

He noted Coulter Jewell Thames, PA, on behalf of Durham Public Schools, et al., proposes an 82,474 square-foot elementary school, encompassing the northern portion of the parcel on which Hillside High School is located to the south, and three parcels neighboring the intersection of Cornwallis Road and Fayetteville Street. The total project area will be 42.245 acres with access at the intersection of Cornwallis Road and Fayetteville Street, and via an access drive on Fayetteville Street at Timothy Avenue. The school will have a capacity of 720 students. Public schools are required to receive a Major Special Use Permit in R-5 and R-3 zoning districts. The site plan was recommended for approval by the Development Review Board on November 19, 2004, pending action on this Major Special Use Permit.

Mr. Stock noted Council must make findings of fact under Section 13.2.3 of the Durham Zoning Ordinance, that the proposed use is: 1) In harmony with the area and not substantially injurious to the value of properties in the general vicinity; 2) In conformance with all special requirements applicable to the use and in conformance with the Supplementary Requirements Section of this Ordinance; and 3) Will not adversely affect the health or safety of the public. He stated Council shall also give consideration to items 1-10 under section 13.2.4 as indicated in the staff report. Additionally, Council may impose conditions on the permit request that the Council deems necessary to ensure that this project is compatible and in harmony with the surrounding neighborhood. Additionally, he noted staff will provide a recommendation to the Council at the conclusion of testimony for this case.

The Mayor asked if there were questions for staff. There were no questions.

There being no objections to the staff report and attachments, City Attorney Blinder admitted them as evidence.

### **Testimony from Applicant**

Dan Jewell, representing the applicant, spoke in support of the major special use permit for the new W. G. Pearson Elementary School that would replace the old and outdated

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structure with a new state-of-the-art facility. He noted the site for the new school would be in walking distance to neighborhoods, on a DATA route and adjacent to the new American Tobacco Trail. Mr. Jewell made comments on the three findings of fact that Council must make and urged Council to approve the major special use permit.

Mayor Bell asked if there were questions for the applicant.

Council held discussion on the location of proposed school to Hillside High School.

Mayor Pro Tempore Cole-McFadden asked the applicant how close is this facility to Hillside High School.

Dan Jewell, representing applicant, noted it's close to Mt. Zion Church, 1,000 feet from the High School building.

### **Testimony from Opponents**

Patricia Hill, of 922 Jerome Road, expressed concern about the construction of the access road to the new W. G. Pearson Elementary School and the property at 3303 Fayetteville Street. She stated the building of this road will be structurally and environmentally not in the best interest of the property at 3303 Fayetteville Street. Also, she expressed concern with sandblasting, the house not being able to withstand activity from the heavy dump trucks and the oak tree [root system and causing harm to people and property].

Mayor Bell asked if there were questions for Ms. Hill.

Dan Jewell, representing the applicant, responded to Ms. Hill's concerns. He noted the State Department of Public Instruction guidelines recommend separate entrances for buses from vehicular traffic into new school sites. Mr. Jewell commented on the Cornwallis Road right-of-way, Ms. Hill's property and noted Durham Public Schools will take full responsibility to make sure impacts were minimized or not happen at all during construction, but that they would be mitigated and Ms. Hill compensated in the necessary fashion if any of those impacts took place.

Mayor Pro Tempore Cole-McFadden asked the applicant how they would mitigate the impact after construction of all the traffic beside 3303 Fayetteville Street.

Dan Jewell noted the applicant cannot mitigate the fact that there will be 12 school buses going in and out from the site, but the applicant would make sure there would be landscaping.

The Mayor Pro Tem asked the applicant are there schools that have constructed access roads through a community.

Dan Jewell made comments on the Hope Valley School reconstruction.

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Council Member Clement asked the applicant if he would furnish Ms. Hill and the neighbors a written statement protecting her and the neighbors from any structural damages or in the event there are structural damages that she will be properly compensated.

Dan Jewell, representing the applicant, replied yes.

Council Member Clement expressed concern with the close proximity of the new elementary school to Hillside High School.

Mayor Bell asked what will happen to Fayetteville Street Elementary School.

Hugh Osteen, of Durham Public Schools, noted it will continue to operate.

Council Member Brown asked the applicant how can the oak tree be saved, will there be blasting and is there an alternative location of access for school buses.

Hugh Osteen, of Durham Public Schools, noted the school will take all measures they can regarding the tree, there will be a possibility of blasting because of a rock in the area and at this point there are no alternative locations for the access for school buses.

Council held discussion on Ms. Hill's property, the buffer and purchase of land.

Mayor Bell asked Ms. Hill when did she become aware of this project having an impact on her property and what discussion has taken place with the school system.

Patricia Hill noted she read about this project in October 2004, received a letter dated December 16 and commented on the discussion she had with Ms. Smith with the school system. She expressed concern noting she does not want the tree to fall a couple of years later on her house, on somebody that would make her responsible for the tree.

Hugh Osteen, of Durham Public Schools, noted should DPS damage the tree and it not survive, they would own up to their responsibility on this issue.

James Hill, Jr. of 5505 Lake Elton Road, expressed concern with the blasting that may occur during the construction which may destroy the house on Fayetteville Street for resale or for investment property use, the root system of the tree and traffic issues.

Gwendolyn Waller, of 1321 Timothy Avenue, expressed concern that this site will have an impact on the existing traffic pattern for the Fisher Heights community, with the number of schools in the area, truancy [hanging out in the neighborhood and the Town & Country store] and speeding.

Hugh Osteen, of DPS, commented on the traffic study and traffic improvements for the area.

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Council Member Catotti expressed concern that notification was not sent to residents of the Fisher Heights community.

Council held discussion on the school enrollment for W. G. Pearson, alternate plan for access road and the right-of-way.

City/County Planning Director Frank Duke summarized the process for a major special use permit and site plan review.

Gwendolyn Waller, of 1321 Timothy Avenue, made comments on the lack of participation/notification the Fisher Heights neighborhood has had with this process. She noted this is not the best site for the school.

The Mayor asked Ms. Hill if she would be willing to work with the Durham Public Schools to reach an agreement concerning issues raised tonight.

Patricia Hill replied she would be agreeable to working something out.

The Mayor asked Hugh Osteen if he would be willing to work with Ms. Hill to reach an agreement concerning issues raised tonight.

Hugh Osteen noted yes.

Council held discussion on the environmental issues [tree].

Mayor Bell asked DPS to provide information on how they plan to keep both schools operating [W. G. Pearson and Fayetteville Street elementary schools].

City Attorney Blinder reminded Council that this is a quasi-judicial hearing and it would not be appropriate for them to have discussion until the public hearing reconvenes on January 18 to receive further information.

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Clement to continue the public hearing without further advertising to the January 18, 2005 City Council Meeting to address environmental issues was approved at 9:05 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: MAJOR SITE PLAN - W. G. PEARSON ELEMENTARY (D04-578)**  
*(This is not a Public Hearing)*

To approve a major site plan for 'W.G. Pearson Elementary School', submitted by Moseley Architects, on behalf of Durham Public Schools, to construct a new 82,474 square foot elementary school on a 42.245 acre site zoned R-5 and R-3, located on the

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east side of Fayetteville Street, north of Riddle Road and south of Cornwallis Road. PIN: 0820-16-83-3423, 0820-15-64-6334, and 0820-15-64-8220.

**MOTION** by Council Member Clement seconded by Council Member Stith to defer this item to the January 18, 2005 City Council Meeting was approved at 9:05 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: STREET CLOSING - 150.11 LINEAR FEET OF AN UNNAMED ALLEY SOUTH OF LAVENDER AVENUE (SC04-23) – DURHAM COUNTY HABITAT FOR HUMANITY**

City/County Planning Director Frank Duke briefed Council on the staff report.

Mayor Bell opened the public hearing.

Jackie Edwards, of 1119 Ellerbee Street, made comments about the letter she received from staff concerning the street closing. She noted a wall should be built to stop traffic and the sewer should be cleaned.

City/County Planning Director Frank Duke briefed Council on the notification requirements of the ordinance.

Mayor Pro Tempore Cole-McFadden noted she would meet with Ms. Edwards regarding her concerns.

Mayor Bell declared the public hearing closed.

**MOTION** by Council Member Clement seconded by Council Member Stith to receive public comments; and

To adopt an Order permanently closing 150.11 linear feet of an unnamed alley south of Lavender Avenue was approved at 9:14 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**Ordinance # 13063**

**SUBJECT: STREET CLOSING - 300 LINEAR FEET OF AN UNNAMED ALLEY EAST OF LINDBERGH STREET (SC04-24) – DURHAM COUNTY HABITAT FOR HUMANITY**

City/County Planning Director Frank Duke briefed Council on the staff report.

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Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor declared the public hearing closed.

Council Member Clement disclosed that he is a Habitat for Humanity Board member, but has no financial interest in this matter.

**MOTION** by Council Member Stith seconded by Council Member Catotti to receive public comments; and

To adopt an Order permanently closing 300 linear feet of an unnamed alley east of Lindbergh Street was approved at 9:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**Ordinance #13064**

**SUBJECT: INITIAL ZONING – HOLLOWAY PROPERTY (P04-11) – ELRY AND PEGGY HOLLOWAY AND CREDLE ENGINEERING COMPANY, INC. FOUNTAIN STREET, GRAHAM AVENUE AND CANTON STREET**

City/County Planning Director Frank Duke briefed Council on the staff report.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor declared the public hearing closed.

**MOTION** by Council Member Clement seconded by Council Member Catotti to receive public comment on initial zoning Case P04-11 (Holloway Property); and

To adopt an ordinance amending the Zoning Ordinance the same being Chapter 24 of the Durham City Code, to establish R-8; F/J-B zoning for the property described in the staff report was approved at 9:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: INITIAL ZONING – SUMMER MEADOW PHASE 5 (P04-51) – JOVEN GROUP SEVEN AND TONY M. TATE LANDSCAPE ARCHITECTURE, PA – HEBRON ROAD, RAINMAKER DRIVE, WEEPING WILLOW DRIVE, DENFIELD STREET AND CRIMSON CLOVER COURT**

City/County Planning Director Frank Duke briefed Council on the staff report.



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Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor declared the public hearing closed.

**MOTION** by Council Member Stith seconded by Council Member Clement to receive public comment on initial zoning Case P04-51 (Summer Meadow Phase 5); and

To adopt an ordinance amending the Zoning Ordinance the same being Chapter 24 of the Durham City Code, to establish PDR 4.69; E-B (partial), F/J-B (partial) zoning for the property described in the staff report was approved at 9:17 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: INITIAL ZONING – TREYBURN VILLAGE - (P04-52) –  
WANDERLUST LT, LLC AND TONY M. TATE LANDSCAPE  
ARCHITECTURE, PA – SAWMILL CREEK PARKWAY,  
VINTAGE HILL PARKWAY AND SNOW HILL ROAD**

City/County Planning Director Frank Duke briefed Council on the staff report.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor declared the public hearing closed.

**MOTION** by Council Member Clement seconded by Council Member Stith to receive public comment on initial zoning Case P04-52 (Treyburn Village); and

To adopt an ordinance amending the Zoning Ordinance the same being Chapter 24 of the Durham City Code, to establish PDR 2.24, SC; F/J-B zoning for the property described in the staff report was approved at 9:17 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**[SUPPLEMENTAL AGENDA]**

**SUBJECT: RESOLUTION TO SET A PUBLIC HEARING FOR THE  
DURHAM COMPREHENSIVE PLAN**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Clement to adopt a resolution to set a public hearing for the Durham Comprehensive Plan for January 31, 2005 was approved at 9:19 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**Resolution #9206**

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Mayor Bell requested an excused absence from the January 6, 2005 City Council Work Session and January 18, 2005 City Council Meeting.

**SUBJECT: EXCUSED ABSENCE – MAYOR BELL**

**MOTION** by Council Member Stith seconded by Council Member Catotti to excuse Mayor Bell from the January 6, 2005 City Council Work Session and January 18, 2005 City Council Meeting was approved at 9:20 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

There being no further business to come before the City Council, the meeting was adjourned at 9:20 p.m.

Linda E. Bratcher  
Deputy City Clerk

D. Ann Gray, CMC  
City Clerk